



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Pevar Company

File: B-242353.2

Date: April 25, 1991

Bernard L. Shapiro, Esq., Rubin, Shapiro, & Weisse, for the protester.
Lt. Colonel William J. Holland, Department of the Air Force, for the agency.
Jennifer Westfall-McGrail, Esq., and Christine S. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Where request for proposals to design and construct a shed roof stated that roof was to be supported by "a pre-engineered steel framing system on concrete piers with bar joists," contracting agency improperly made award to an offeror proposing a support system that did not use bar joists.

DECISION

Pevar Company protests the award of a contract to Bildon, Inc. under request for proposals (RFP) No. F07603-91-R-8201, issued by the Department of the Air Force for the design and construction of a shed roof over loading docks extending from the aerial freight terminal at Dover Air Force Base, Delaware. Pevar contends that Bildon proposed a design incorporating purlins as a method of support despite the fact that the solicitation required the use of bar joists.^{1/}

We sustain the protest.

The RFP, which was issued on November 27, 1990, called for the design and construction of a 53,000 square foot shed addition to the existing air freight terminal at Dover Air Force Base. The acquisition was undertaken on an urgent basis pursuant to

^{1/} The protester also raised a number of other issues in its initial submission to our Office. We will not consider these matters since, in our view, the bar joist requirement is dispositive of the protest. In any event, the protester abandoned all but one of the issues in its post-conference comments.

10 U.S.C. § 2304(c)(2) (1988),^{2/} since its purpose was to prevent any disruption of the cargo loading operations in support of Operation Desert Storm. The RFP required that the work be completed within 45 days.

The RFP contained a statement of project scope, which described the characteristics of the structure to be erected. One required feature was that the new addition consist of "a pre-engineered steel framing system on concrete piers with bar joists (open-bay construction) and a translucent paneled roof." (Emphasis added.) Other technical requirements concerned the type of roofing panels to be used; the type of paint to be applied to the structural steel; and the wind, snow, and soil bearing loads that the roof would be required to bear. The RFP also listed a number of categories of technical information that offerors would be required to submit to demonstrate compliance with the RFP's technical requirements and indicated that offerors whose proposals did not contain this information might be rejected as technically unacceptable. The required technical information included such items as the manufacturer's catalogue cuts; descriptive literature for the roof panels to be used; calculations verifying and establishing that the structure had been designed for snow, wind, and soil bearing loads; all dimensions necessary to lay out and construct the structure; foundation details; and shop drawings showing all information necessary for the fabrication and erection of the structure. The solicitation also indicated that award would be made to the lowest-priced, technically acceptable offeror.

Six offerors submitted proposals by the December 11, 1990, closing date. Of the six, only Bildon proposed a purlin support structure. The Air Force conducted oral and written discussions with all six offerors between December 13 and 18. Best and final offers were requested on December 18 and

^{2/} Section 2304(c)(2) provides that when the agency's need for the supplies or services is of such an unusual and compelling urgency that the government would be seriously injured unless the agency is permitted to limit the number of sources from which it solicits bids or proposals, full and open competition is not required. The agency is required to solicit proposals from as many potential sources as is practicable under the circumstances. 10 U.S.C. § 2304(e). In this case, the agency initially furnished a copy of the RFP to six firms. During the procurement process, two additional contractors, one of which was Pevar, became aware of the requirement, and requested and were furnished copies of the solicitation.

received on December 19. All final offers were judged technically acceptable. Bildon's final price of \$1,079,079 was low; Pevar's price of \$1,134,200 was second low. The Air Force awarded a contract to Bildon on December 24, and determined that urgent and compelling circumstances dictated that performance proceed despite the filing of Pevar's protest within 10 days of award. Work on the project has now been completed.

Pevar argues that the building design proposed by Bildon is unacceptable because it incorporates purlins rather than the bar joists required by the solicitation. Pevar contends that if it had realized that purlins would be acceptable, it would have offered a different, far less expensive design.

Purlins and bar joists are two different types of supporting beams used in construction. A purlin is made from a single thin rectangular piece of sheet metal and derives its strength from the creases or folds that are rolled or pressed into the steel. A bar joist is constructed of upper and lower chord flanges interconnected by a webbing of bars installed between the flanges and derives its strength from the bars. Purlins are seldom made to span more than 24 to 26 feet, while bar joists can span distances greater than 80 feet, but are generally most economical for distances of 40 to 45 feet.

The agency argues that the term "bar joist" was used in the item description in a generic sense to help offerors "understand a quality level of design the government intended for the structure." In other words, according to the agency, it intended that offerors interpret bar joist as meaning bar joist or equivalent method of design. As support for its argument, the Air Force notes that in listing the technical information that offerors would be required to submit to demonstrate compliance with the RFP's technical requirements, the requirement for "[s]hop drawings showing all information necessary for the fabrication and erection of the structure" advised offerors to "[i]ndicate on the drawing the materials, connections, fasteners, supporting members, bracing, and installation procedures"--but did not mention bar joists. As further support for its position, the agency contends that purlins were identified as acceptable structures in the agency's own internal evaluation guidelines, which instructed the technical evaluators to consider whether the offeror's calculations provided actual versus allowable loads for major structural components including "roof panels, fasteners, joists, purlins, columns, foundation, and anchor bolts." The agency also notes that in schedule E of the RFP (Material Approval Submittals), there is a reference to a pre-engineered steel framing system but no reference to either bar joists or purlins.

We do not agree with the agency that a reasonable offeror, reading the solicitation as a whole, would have understood the RFP to be asking for anything other than a steel framing system incorporating bar joists. The fact that offerors were instructed to indicate on their shop drawings the "supporting members" that they would use in the structure, without specifying that these supporting members were to be bar joists, does not prove the agency's assertion. This section of the RFP identified for offerors the type of technical information that they were required to submit to demonstrate compliance with the RFP technical requirements, but did not set forth the required technical features; instead, these were set forth in the RFP's statement of project scope, which called for bar joists.

Further, we fail to see why offerors should have been aware that purlins were acceptable based on the fact that they were listed in the agency's own internal evaluation guidelines, to which offerors were not privy. Nor do we see why the fact that schedule E (Material Approval Submittals) refers generally to a "pre-engineered steel framing system" without referring to bar joists should have put offerors on notice that purlins would be an acceptable alternative. With regard to the "pre-engineered steel framing system," schedule E in fact references paragraphs A and B of the statement of project scope, and paragraph A includes the requirement for bar joists.

The record also shows that offerors proposing designs incorporating bar joists as opposed to purlins did so to their competitive prejudice. In support of its argument that the use of a purlin support system would have been substantially less expensive than a bar joist design, the protester submitted documentation from both its concrete subcontractor and its roofing subcontractor. The concrete subcontractor indicated that his price would have been \$69,000 lower if he had realized that a jack beam and purlin structural system was acceptable since it would have significantly reduced the number of steel columns and concrete foundations required to support the structure. Similarly, Pevar's roofing subcontractor estimated that his costs would have been reduced between \$33,138 and \$49,695 if he had known that a design incorporating purlins would be acceptable since purlins reduce the amount of time required to fabricate and erect the roof. Reducing Pevar's price by these amounts (a total of \$102,138 to \$118,695) would have made Pevar the lowest priced offeror; as noted above, Bildon's price was only \$55,121 lower than Pevar's.

The agency contends that a support structure which primarily utilizes bar joists actually could have a lower cost than a support system using purlins due to the requirement for fewer

structural members in the former. The agency states, however, that there are a number of counterbalancing cost tradeoffs between the two types of support structures so that overall there is no difference in cost between the two. The agency's contentions, in this regard, are generalized and without specific support in comparison to the detailed information showing a substantial cost impact submitted by Pevar. Moreover, although the agency disputes the protester's contention that a bar joist support system is more costly than a purlin support system, it concedes that there is a difference in overall cost between the two types of shed roof systems (i.e., the support systems plus the roofing) based on the fact that a purlin support system can meet the loading requirements set forth in the solicitation with an 8 ounce panel, while the bar joist support system requires the use of a more expensive 16 ounce panel to meet the loading requirements.

In making award to Bildon, the agency concluded that an alternate to the bar joist design called for by the RFP would meet its needs, thereby relaxing the specification and establishing that the RFP overstated its minimum needs. Where an RFP states the government's needs in an overly restrictive manner, the appropriate remedy is ordinarily amendment of the solicitation to reflect the government's actual needs, followed by a request for another round of offers. Logitek, Inc., B-238773, July 6, 1990, 90-2 CPD ¶ 16. Here, since work on the shed roof has been completed, we cannot recommend amendment of the RFP and a reopening of the competition. Instead, we find that the protester is entitled to its proposal preparation costs and the costs of filing and pursuing its protest, including attorneys' fees. 4 C.F.R. §§ 21.6(d)(1), (2) (1991); Jarrett S. Blankenship, B-237584, Mar. 8, 1990, 90-1 CPD ¶ 258.

The protest is sustained.

Victor J. Jordan
for Comptroller General
of the United States